

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

M.F.A.No.813 of 1997(A)

O.P.(M.V).NO.131/1993 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL,
PALAKKAD

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APPELLANT/PETITIONER:-

K.MOHAMMED SON OF MAYIN,
RESIDING AT KUNNATHU VEEDU, PONNAMKODE,
VAZHAMPURAM POST, THACHAMBARA, PALGHAT.

BY ADV. SRI.T.C.MOHANDAS
SRI.A.R.GANGADAS
SMT.ANJU GOVIND
SRI.T.M.SUNIL

RESPONDENTS/RESPONDENTS:-

1. MOHAMMAD MUSTHAFA, S/O.RAYINKUTTY, PARAMBIL HOUSE,
AIKKARAPPADI, KOTTEDI, MALAPPURAM.
2. KALATHIL UNNIKOYA, S/O.ASSANALI, VALLIYIL HOUSE,
POST: AIKKARAPADI, MALAPPURAM.
3. THE ORIENTAL INSURANCE CO. LTD., CITY BRANCH OFFICE,
11/92, PRAMOD BUILDING, CHEROOTTY ROAD, KOZHIKODE.

R3 BY ADV. SRI.MATHEWS JACOB.

THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN FINALLY
HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:-

K.Padmanabhan Nair,J.

M.F.A.No.813 of 1997-A

Dated, this the 21st day of March, 2007

JUDGMENT

The applicant in O.P.(M.V.).No.131 of 1993 on the file of Motor Accidents Claims Tribunal, Palakkad is the appellant. The appellant sustained injuries in a road traffic accident at about 2.00 A.M. on 12.7.1992. He was driving a bullock cart. At that time, a lorry bearing registration No.KRD 1087 came from the rear side of the bullock cart and hit against the cart. According to the appellant, one of the bullocks died at the spot and the other ox sustained severe injuries. The cart also sustained substantial damages. The appellant, who sustained injuries, was admitted in the hospital and treated as an inpatient. He filed petition claiming compensation. The Tribunal after enquiry awarded an amount of Rs.2,950/- towards the appellant's personal injuries and costs and Rs.5,000/- for the damages sustained to the bullock cart as well as the value of the bullock. Challenging that quantum of compensation, the claimant has filed this appeal.

2. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the lorry and the appellant is entitled to compensation for his personal injuries, value of bullock and also the damages caused to his bullock cart all that became final and conclusive.

3. The appellant was awarded Rs.2,600/- for the personal injuries and Rs.350/- towards costs. This is a very meagre compensation. The Tribunal awarded only Rs.300 for treatment. Though the appellant was admitted in the hospital on 12.7.1992 and discharged on 26.7.1992. I am awarding Rs.400/- more towards medical treatment. For pain and suffering, the Tribunal awarded only Rs.1,500/-. The Tribunal ought to have awarded an amount of Rs.3,000/- on that count. So, an additional amount of Rs.1,500/- is awarded for pain and suffering. Towards loss of amenities, the Tribunal awarded Rs.400/- only. I am of the view that at least Rs.1,000/- ought to have been awarded on that count. I am awarding an additional amount of Rs.600/- for loss of amenities. So, the appellant is entitled to get Rs.2,500/- more for the injuries sustained by him.

4. The Tribunal itself found that the bullock cart sustained substantial damages and one of the bullocks sustained injuries. The Tribunal did not accept the case of the appellant that one of the oxen died and hence no compensation was awarded for the other bullock. I do not find any reason to disbelieve the oral evidence of the appellant. The lorry came from behind and hit against the bullock cart. The cart sustained substantial damages and one of the bullocks sustained very serious injuries. So, it is very difficult to hold that the other bullock did not sustain any injury at all. So, I accept the oral evidence of P.W.1 and hold that one of the oxen died and the other sustained injuries in the accident. The Tribunal ought to have awarded Rs.5,000/- as value of the bullock died. The compensation of Rs.2,000/- awarded for the repair of the bullock cart is also meagre. The Tribunal ought to have awarded Rs.4,500/- on that count. So, an additional amount of Rs.2,500/- is awarded towards the repair charges of the bullock cart. Thus, the appellant is entitled to get an additional compensation of Rs.7,500/- for the damage sustained to the bullock cart and also value of the bullock died.

In the result, the appeal is allowed in part. An additional award is passed allowing the appellant to recover an amount of Rs.10,000/- (Rupees ten thousand only) with interest at the rate of 7% per annum from the date of petition till realisation. The 3rd respondent, Insurer, shall pay that amount also.

K.Padmanabhan Nair
Judge

vku/-